

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

IN RE: AQUEOUS FILM-FORMING
FOAMS PRODUCTS LIABILITY
LITIGATION

MDL NO: 2:18-mn-2873-RMG

This filing relates to:

ALL CASES

**ORDER COMPELLING THE PRODUCTION
OF DOCUMENTS WITHHELD AS PRIVILEGED**

WHEREAS, Defendants E. I. du Pont de Nemours and Company (now known as EIDP, Inc.¹) (“EIDP”) and The Chemours Company (“Chemours”) (collectively, “Defendants”) have withheld certain documents relating to Plaintiffs’ fraudulent transfer claims on the ground of privilege.

WHEREAS, following Plaintiffs’ motion to compel (Dkt. 2318), this Court recently ordered Defendants to produce certain documents related to Plaintiffs’ fraudulent transfer claims over which Defendants assert attorney-client privilege, work-product doctrine, common-interest doctrine, and/or other applicable privileges. *See* Order, Dkt. 2687. The order was subsequently revised and/or clarified pursuant to Defendants’ motion for reconsideration. *See* Order, Dkt. 2844. The two orders at docket numbers 2687 and 2844 shall collectively be referred to as the “Privilege Orders.”

WHEREAS, Defendants have made a set of productions pursuant to the Privilege Orders. On March 7 and April 4, 2023, pursuant to the Court’s Order (Dkt. 2844 at 13) Plaintiffs identified a set of additional documents they believe should also be produced pursuant to the Privilege

¹ Effective as of January 1, 2023, E. I. du Pont de Nemours and Company changed its name to EIDP, Inc.

Orders. Defendants have reviewed the documents identified by Plaintiffs, and are producing the documents associated with the log entries listed in Exhibit 1 (as to documents in the possession of EIDP) and Exhibit 2 (as to documents in the possession of Chemours) pursuant to the Privilege Orders.

NOW THEREFORE, in consideration of the foregoing, the Court hereby ORDERS as follows:

1. Defendant EIDP is ordered to produce the documents specified by the privilege log line numbers listed in Exhibit 1, pursuant to the Privilege Orders.

2. Defendant Chemours is ordered to produce the documents specified by the privilege log line numbers listed in Exhibit 2, pursuant to the Privilege Orders.

3. That Defendants joined the motion for entry of this Order shall not constitute, nor shall it result in, a waiver of Defendants' right to withhold from production or to assert, designate, or maintain as privileged: (a) the documents listed in Exhibits 1 and 2 in any other litigation; or (b) any other communications or documents in this or any other litigation.

4. This order is limited to the above-listed Defendants and the documents ordered to be produced pursuant to paragraphs 1 and 2, and shall have no precedential effect beyond this case.

SO ORDERED.

Dated: July 10, 2023

Charleston, South Carolina

s/Richard Mark Gergel
Hon. Richard Mark Gergel